

# **CITIES AND TOWNS BULLETIN**

## **AND UNIFORM COMPLIANCE GUIDELINES**

### **ISSUED BY STATE BOARD OF ACCOUNTS**

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June 1998

#### 1998 LAWS AFFECTING CITIES AND TOWNS

The following is a listing of laws enacted by the General Assembly that are related to cities, towns and municipally owned utilities. If you have any questions regarding legal interpretation, please consult your city or town attorney. We have listed the laws in public law order sequence and the references are to the Indiana Code.

**PUBLIC LAW 1-HOUSE ENROLLED ACT 1011-EFFECTIVE JULY 1, 1998**

**CIVIL PROCEDURE** - Recodifies Title 34 - Changes the statutory reference for the Deferral Program to IC 34-28-5-1. States that an ordinance defining a moving traffic violation must be enforced under IC 34-28-5.

**PUBLIC LAW 2-SENATE ENROLLED ACT 101-EFFECTIVE VARIOUS DATES**

**TECHNICAL CORRECTIONS** - Makes several corrections to laws which contain technical errors.

**PUBLIC LAW 3-HOUSE ENROLLED ACT 1005-EFFECTIVE JULY 1, 1998**

**UNEMPLOYMENT COMPENSATION** - Amends IC 22-4-15-4 - States that social security benefits are not to be considered in determining eligibility for benefits.

**PUBLIC LAW 4-HOUSE ENROLLED ACT 1008-EFFECTIVE JULY 1, 1998**

**JURY DUTY** - (All Counties Except Lake County) - Amends IC 33-4-5-7 - States that a person shall be excused from jury duty if the person:

- (1) is over sixty-five (65) years of age;
- (2) is a member in active service of the armed forces of the United States;
- (3) is an elected or appointed official of the executive, legislative, or judicial branches of government of:
  - (A) the United States;
  - (B) Indiana; or
  - (C) a unit of local government;who is actively engaged in the performance of the person's official duties;
- (4) is a member of the general assembly who makes the request to be excused before being sworn as a juror;
- (5) is an honorary military staff officer appointed by the governor under IC 10-2-1-5;
- (6) is an officer or enlisted person of the guard reserve forces authorized by the governor under IC 10-2-8;
- (7) is a veterinarian licensed under IC 15-5-1.1;
- (8) is serving as a member of the board of school commissioners of the City of Indianapolis under IC 20-3-11-2;
- (9) is a dentist licensed under IC 25-14-1;
- (10) is a member of a police or fire department or company under IC 36-8-3 or IC 36-8-12; or
- (11) would serve as a juror during a criminal trial and the person is:
  - (A) an employee of the department of correction whose duties require contact with inmates confined in a department of correction facility; or
  - (B) the spouse or child of a person described in (A);and desires to be excused for that reason.

PUBLIC LAW 4 (Continued)

JURY DUTY - LAKE COUNTY - Amends IC 33-4-5.5-13

Adds active members of the armed forces and employees (their spouses and children) of the department of correction who are in contact with confined inmates to the list of persons exempt from serving on juries.

PUBLIC LAW 5-HOUSE ENROLLED ACT 1028-EFFECTIVE JULY 1, 1998

STORM WATER MANAGEMENT BOARD - SECOND CLASS CITIES - Amends IC 8-1.5-5

States that if a second class city has a department of public sanitation, the executive of the city may appoint the members of the board of sanitary commissioners as the board of directors of the department of storm water management.

PUBLIC LAW 7-HOUSE ENROLLED ACT 1139-EFFECTIVE JULY 1, 1998

PUBLIC PURCHASES - Amends IC 5-22-8 - Allows purchases expected to be below \$75,000 to be purchased under a city or town's small purchase policies adopted by the purchasing agency or rules adopted by the governing body. Requires at least three quotes to be obtained where a purchase is between \$25,000 and not more than \$75,000. Sets out procedures for cities and towns to follow in delivering contracts and purchase orders to successful offerors.

PUBLIC LAW 13-HOUSE ENROLLED ACT 1201-EFFECTIVE JULY 1, 1998

PENALTY FOR FLEEING A LAW ENFORCEMENT OFFICER - Amends IC 35-44-3-3 - Makes it a Class D Felony to use a vehicle to flee a law enforcement officer.

PUBLIC LAW 15-HOUSE ENROLLED ACT 1245-EFFECTIVE MARCH 6, 1998

DEFERRED COMPENSATION - Amends IC 5-10-1.1 - Adds IC 5-10-1.1-9 - Creates a new Deferred Compensation Committee that will act as trustee of the State's deferred compensation plan. Allows for insurance and investment products that are appropriate for a nonqualified deferred compensation plan to fund such a plan.

PUBLIC LAW 16-HOUSE ENROLLED ACT 1253-EFFECTIVE JULY 1, 1998

PORT AUTHORITY RETIREMENT PLANS - Adds IC 8-10-5-6.5 - Allows a port authority that operates a railroad to establish a retirement plan for its employees.

PUBLIC LAW 17-HOUSE ENROLLED ACT 1353-EFFECTIVE JULY 1, 1998

HOME DETENTION - Amends IC 35-41-1-18 and IC 35-44-3-5 - States that a person who knowingly or intentionally violates a home detention order and intentionally removes an electronic monitoring device commits escape, a Class D felony.

PUBLIC LAW 20-SENATE ENROLLED ACT 114-EFFECTIVE JULY 1 1998

SMOKING IN PUBLIC BUILDINGS - Amends IC 16-41-37-4 - Makes it a Class B infraction if a person smokes in a public building. (Under prior law, this was a Class C infraction) However, the violation is a Class A infraction if the person has at least 3 previous unrelated judgements for violating IC 16-41-37-3 that are accrued within 12 months immediately preceding the violation.

PUBLIC LAW 21-SENATE ENROLLED ACT 115-EFFECTIVE JULY 1 AND SEPTEMBER 1, 1998

LIBRARIES - Amends IC 20-14-2, IC 20-14-3, IC 20-14-5, and IC 20-14-5.1 - Makes several changes to the laws governing the establishment of a library. Changes laws governing petitions and remonstrances in such proceedings.

PUBLIC LAW 22-SENATE ENROLLED ACT 120-EFFECTIVE JULY 1, 1998 AND JULY 1, 1999

1977 POLICE AND FIRE PENSION FUND - Amends IC 36-8-8 - Allows park rangers employed by the City of Evansville to become members of the plan. States that a police officer or firefighter who converted his benefits from a 1925, 1937, or 1953 fund is not entitled to receive any benefits from the original fund. However, he is entitled to credit for all years of service for which he would have received credit before his conversion in that original fund. A police officer or firefighter who:

- (1) converted his benefits from a 1925, 1937 or 1953 fund;
- (2) who did not retire or become disabled on or before June 30, 1998; and
- (3) who is entitled to receive benefits provided under the 1977 Plan based on the eligibility requirements of the Plan;

remains a member of that original fund but is entitled to receive only the benefits provided under the 1977 Plan and based on the eligibility requirements of the Plan.

A fund member is eligible for retirement after he has completed twenty (20) years of active service. Effective July 1, 1999, unless the member is receiving benefits under IC 36-8-8-11(c), unreduced benefits to a retired fund member begin the date:

- (1) the fund member becomes fifty-two (52) years of age; or
- (2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member begin on the first day of the month on or after the date he reaches fifty-two (52) years of age or on which he retires, whichever is later.

A retired member may elect to receive actuarially reduced benefits that begin the date:

- (1) the fund member becomes fifty (50) years of age; or
- (2) on which the fund member retires;

whichever is later. Benefit payments to a retired fund member begin on the first day of the month on or after the day the member reaches fifty (50) years of age or on which the member retires, whichever is later.

If a fund member:

- (1) becomes fifty-two (52) years of age in the case of unreduced benefits or fifty (50) years of age in the case of reduced benefits; or
- (2) retires on a date other than on the first day of the month;

the amount due the fund member for the initial partial monthly benefit is payable together with the regular monthly benefit on the first of the month following the date the fund member becomes fifty-two (52) or fifty (50) years of age, respectively, or retires, whichever is later.

PUBLIC LAW 24 - SENATE ENROLLED ACT 171 - EFFECTIVE MARCH 11, 1998

AUTOMATIC EXTERNAL DEFIBILLATORS - Adds IC 16-31-6.5 - Amends IC 34-4-12-1.5. Requires a person or entity acquiring a defibulator to meet certain standards and notify ambulance service providers and fire departments of the purchase and use of the defibulator.

PUBLIC LAW 33 - SENATE ENROLLED ACT 385 - EFFECTIVE JULY 1, 1998

CLERK OF THE CITY COURT - THIRD CLASS CITIES - Amends IC 33-10.1-6-1.1 and 2, IC 36-4-10-4, IC 36-4-10-7 and IC 36-5-6-6. States that in third class cities, the judge may act as clerk and performs all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk (clerk-treasurer) elected under IC 36-4-10 shall perform the duties of the clerk of the city court.

PUBLIC LAW 33 - (Continued)

CLERK OF TOWN COURT - The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 36-5-6-4 shall perform the duties of the clerk of the town court.

PUBLIC LAW 39-HOUSE ENROLLED ACT 1015-EFFECTIVE JULY 1, 1998

MINIMUM WAGE - Amends IC 22-2-2-4 - Increases the State minimum wage on October 1, 1998 and March 1, 1999 under certain circumstances.

PUBLIC LAW 45-HOUSE ENROLLED ACT 1072-EFFECTIVE JULY 1, 1998

PERF - COST OF LIVING INCREASES - Adds IC 5-10.2-5-26 - Provides cost of living percentage increases to members of PERF or their survivors or beneficiaries.

PUBLIC LAW 46-HOUSE ENROLLED ACT 1097-EFFECTIVE MARCH 11, 1998 AND JULY 1, 1998

LAKE COUNTY HOTEL, MOTEL TAX - Amends IC 6-9-2-4 - Adds IC 6-9-2-4.5, 4.7 and 5.5 - Allows Lake County Convention and Visitor Bureau to enter into leases or issue bonds to construct a visitor center.

MARION COUNTY ADMISSIONS TAX - Amends IC 6-9-13-1 - Provides that the admissions tax does not apply to an event sponsored by a political organization.

ALLEN COUNTY FOOD AND BEVERAGE TAX - Amends IC 6-9-23-8 - Allows food and beverage tax revenue to be used for an athletic and exhibition coliseum in existence before January 1, 1998.

UNIFORM INNKEEPERS TAX - Amends IC 6-9-18-4 - States that if before July 1, 1997, a county issues a bond with a pledge of revenues from the tax imposed under IC 6-9-18-3, the county shall continue to expend money from the fund for that purpose until the bond is paid.

PUBLIC LAW 49-HOUSE ENROLLED ACT 1162-EFFECTIVE JANUARY 1, 1998 (Retroactive)

POLICE AND FIRE DEATH BENEFITS - Amends IC 36-8-6-9.8, IC 36-8-7-13, IC 36-8-7.5-13.8 and IC 36-8-8-16 - Raises the minimum death benefit from \$6,000 to \$9,000 for members of the 1925, 1937, 1953 and 1977 pension plans who die after December 31, 1998.

SPECIAL DEATH BENEFITS - Amends IC 5-10-10-6, IC 36-8-6-20, IC 36-8-7-26, IC 36-8-7.5-22 and IC 36-8-8-20 - Raises the benefit to be paid to the beneficiary of a member who dies in the line of duty from \$75,000 to \$150,000. (This benefit is paid by PERF.)

PUBLIC LAW 50-HOUSE ENROLLED ACT 1177-EFFECTIVE JULY 1, 1998

VOLUNTEER FIREFIGHTERS - Amends IC 36-8-10.5-6 - Allows a volunteer firefighter to be elected or appointed to more than one volunteer fire company.

VOLUNTEER FIRE COMPANIES - CHARGES FOR SERVICES - Amends IC 36-8-12-13 and 16 - Changes the name of a volunteer fire department to volunteer fire company. Allows a company to impose a charge for a hazardous material or fuel spill or chemical or hazardous material related fire to the owner of property, owner of a vehicle, or a responsible party. Requires a company to advertise in each political subdivision served by the company a list of its service charges.

PUBLIC LAW 56-SENATE ENROLLED ACT 429-EFFECTIVE JULY 1, 1998

SEX OFFENDER REGISTRY - Adds IC 5-2-12-7.5, 8.5 and 8.6 - Amends IC 5-2-12-5 and 7 - Requires local law enforcement agencies to notify the Criminal Justice Institute whenever an offender registers with the law enforcement agency.

**PUBLIC LAW 57- SENATE ENROLLED ACT 16- EFFECTIVE JULY 1, 1998**

**SEAT BELTS** - Amends IC 9-19-10, IC 9-19-11. Adds IC 9-19-10-2.5 - Requires children who are age 4 through 11 to wear safety belts. Allows law enforcement officers to stop, inspect, or detain operators of motor vehicles to determine if such children are using safety belts. States that it is a Class D infraction to operate a motor vehicle where a child less than 4 years old is not properly fastened and restrained. (Under prior law, this was a Class C infraction.)

**PROBATIONARY LICENSES** - Amends IC 9-24-11-3 - Requires persons less than 18 years old during the first 90 days following issuance of a driver's license to have an individual who is at least 21 years old and a licensed driver in the front seat of the motor vehicle while he/she is driving. Further requires all occupants of the motor vehicle to wear seat belts during this 90 day period. Prevents persons 18 years of age who are involved in 2 traffic accidents 12 months preceding the date an individual applied for a driver's license from retaining an operator's license.

**PUBLIC LAW 60- SENATE ENROLLED ACT 132- EFFECTIVE JULY 1 1998**

**MOTORCYCLE PARKING** - Amends IC 9-21-16-7 - States that a motorcycle stopped or parked upon a roadway where there is an adjacent curb may be stopped or parked with the rear wheel of the motorcycle to the curb and with the front tire facing the flow of traffic.

**PUBLIC LAW 62-SENATE ENROLLED ACT 152-EFFECTIVE JULY 1, 1998**

**STATE POLICE EMPLOYEES** - Amends IC 10-1-1-4 - Allows a State Police employee to serve in a part-time local elected office and remain an employee of the State Police Department.

**PUBLIC LAW 63-SENATE ENROLLED ACT 158-EFFECTIVE JULY 1, 1998**

**UNDERGROUND STORAGE TANK GRANTS** - Amends IC 13-23-10 and IC 13-23-11. Adds IC 13-23-10-10. Allows Indiana Development Finance Authority to award grants to underground storage tank owners and operators for removal of the tanks. Sets out requirements owners and operators must follow to receive grants.

**PUBLIC LAW 64-SENATE ENROLLED ACT 181-EFFECTIVE JULY 1, 1997 (Retroactive) AND JULY 1, 1998 - TOWN PARK AND RECREATION BOARDS** - Amends IC 36-10-3-4. Requires a member of a park and recreation board to be a resident of the park and recreation district. Allows a school corporation to appoint ex officio members to a town park and recreation board if the ordinance creating the board allows for ex officio members.

**REGIONAL TRANSPORTATION AUTHORITIES - LAKE COUNTY** - Amends IC 36-9-3 - Changes membership requirements for members of the Authority's board.

**PUBLIC LAW 66-SENATE ENROLLED ACT 248-EFFECTIVE JULY 1, 1998**

**ALCOHOLIC BEVERAGE PERMITS** - Adds IC 7.1-3-22-10 - Allows a city or town to purchase an ABC Permit when the number of permits issued exceeds the State quota. The purchase is to be made from the permit holder and the city or town executive and legislative bodies must agree to the price paid for the permit. Such permit must be returned to the Alcoholic Beverage Commission.

**PUBLIC LAW 68-SENATE ENROLLED ACT 348-EFFECTIVE JULY 1, 1998**

**GHOST EMPLOYMENT** - Amends IC 35-44-2-4 - States that an employee of a governmental entity who voluntarily performs services:

- (1) that do not:
  - (A) promote religion;
  - (B) attempt to influence legislation or governmental policy; or
  - (C) attempt to influence elections to public office;
- (2) for the benefit of:
  - (A) another governmental entity; or
  - (B) an organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;

PUBLIC LAW 68 - (Continued)

- (3) with the approval of the employee's supervisor; and
  - (4) in compliance with a policy or regulation that:
    - (A) is in writing;
    - (B) is issued by the executive officer of the governmental entity; and
    - (C) contains a limitation on the total time during any calendar year that the employee may spend performing the services during normal hours of employment.
- is considered to be performing duties related to the operation of the governmental entity.

PUBLIC LAW 76-HOUSE ENROLLED ACT 1146-EFFECTIVE JULY 1, 1998

DISPOSAL OF REAL PROPERTY NEAR AIRPORTS - Amends IC 36-1-11-1 -Exempts real property acquired under the Federal Noise Compatibility Program from the disposal of property laws contained in IC 36-1-11.

PUBLIC LAW 78-HOUSE ENROLLED ACT 1172-EFFECTIVE JULY 1, 1998

NORTHWEST INDIANA LAW ENFORCEMENT TRAINING CENTER - Amends IC 5-2-1 - Adds IC 5-2-1-15.2 - Allows the Northwest Indiana Law Enforcement Training Center, until July 1, 2000, to provide basic training to law enforcement officers employed by a law enforcement agency that is a member agency of the Northwest Indiana Law Enforcement Training Center and who were not accepted at the Law Enforcement Academy because the Academy did not have space for the officers in its basic training course.

PUBLIC LAW 79-HOUSE ENROLLED ACT 1185-EFFECTIVE JULY 1, 1998

OPTICAL IMAGES - DEPOSIT DOCUMENTS - Amends IC 5-15-6-3 - States that optical imaged deposit documents are to be considered as an original record just as an optical image of a check is to be treated.

SAVINGS ASSOCIATIONS - Amends IC 5-13-4 - Changes the name of building and loan associations and savings and loan associations to savings associations.

PUBLIC LAW 83-HOUSE ENROLLED ACT 1210-EFFECTIVE JULY 1, 1998

SURPLUS FIRE EQUIPMENT - Adds IC 5-22-22-12 - Allows a governmental body to transfer title of surplus property to a volunteer fire company. A volunteer fire company located in the same county as the governmental body offering the surplus property has the right of first refusal of the surplus property offered. If refused, the property can be offered to any volunteer fire company in Indiana.

FIRE EQUIPMENT LOANS - Amends IC 36-8-11-26, IC 36-8-13-5, and IC 36-8-19-8,7 - Allows fire districts, townships and fire territories to enter into fire equipment loans running for up to 15 years under certain circumstances.

PUBLIC LAW 85-HOUSE ENROLLED ACT 1226-EFFECTIVE JULY 1, 1998

ORDINANCE VIOLATIONS BUREAUS - Amends IC 33-6-3-1 Raises the maximum penalty amount of a violation which could be accepted by an ordinance violations bureau from \$50 to \$100.

HIGHWAY WORK ZONE FEES - Amends IC 33-19-6-14 - Requires a city or town court clerk to collect the fee on all traffic ordinance violation cases where the defendant pleads guilty and pays court costs.

ALCOHOL AND DRUG COUNTERMEASURES FEE - Amends IC 33-19-6-10 - Requires the clerk of the city or town court to collect on alcohol and drug countermeasures fee where the court or the bureau of motor vehicles has suspended a person's driving privileges.

PUBLIC LAW 86-HOUSE ENROLLED ACT 1229-EFFECTIVE JULY 1, 1998

ADVERSE POSSESSION OF LOCAL GOVERNMENT PROPERTY - Amends IC 32-1-20-2 - Prevents real property owned by a city or town from being acquired through adverse possession. States that a cause of action to obtain real property owned by a city or town may not be commenced after July 1, 1998.

PUBLIC LAW 93-HOUSE ENROLLED ACT 1338-EFFECTIVE JULY 1 1998

WASTE TIRES - Amends IC 13-11-2, IC 13-20-13, IC 13-20-14 - Adds IC 13-20-13-1.5 and 5.5 and IC 13-20-14-5.3 Makes several changes to the laws governing waste tire storage and disposal.

PUBLIC LAW 96-SENATE ENROLLED ACT 113-EFFECTIVE JULY 1, 1998

AIRPORTS - TALL STRUCTURES - Adds IC 8-21-10-3.1 - Amends IC 8-21-10-2 and 14 - Requires persons erecting, installing, or modifying a structure near an airport to obtain written authorization from the airport before such work is started.

PUBLIC LAW 98-SENATE ENROLLED ACT 150-EFFECTIVE MARCH 13 1998

ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE - Adds IC 36-8-16.5 - Establishes a state-wide wireless enhanced 911 advisory board. Creates new wireless enhanced 911 fees. A portion of the fees is to be set aside for those cities and towns applying that receive incoming 911 calls and dispatches appropriate public safety agencies to respond to the calls. If a city or town receives such funds, the money shall be placed in a (name of city or town) emergency telephone system fund. Interest earnings from an investment fund must be placed in the fund. The fund would require local council appropriation.

The fund may be used for the lease, purchase, or maintenance of wireless enhanced emergency telephone equipment, including:

- (1) necessary computer hardware, software, and data base equipment;
- (2) personnel expense and training;
- (3) the provision of wireless enhanced emergency service; or
- (4) educating consumers about the operations, limitations, role, and responsible use of enhanced 911 service.

PUBLIC LAW 99-SENATE ENROLLED ACT 159-EFFECTIVE JULY 1, 1998

WEED ASSESSMENTS ON CITY OR TOWN PROPERTY - Adds IC 15-3-4.6-5.4 - Requires the fiscal officer of a city or town to make an appropriation from the appropriate fund to pay the county weed control board the amount set out in a certified statement of costs for having such weeds removed from the city or town's property.

PUBLIC LAW 101-SENATE ENROLLED ACT 190-EFFECTIVE AUGUST 1, 1996 (Retroactive) AND

MARCH 13, 1998 - BOARD OF METROPOLITAN POLICE COMMISSIONERS - Amends IC 36-8-9-2 and IC 36-8-9-4 - Allows a town council to establish such board by ordinance instead of through a referendum. Eliminates the political party limitation on members of the police department.

1977 POLICE AND FIRE PENSION PLAN - Amends IC 36-8-8 - Allows PERF Board to grant prior service credits to town marshals and deputy town marshals who become employees of a board of metropolitan police commissioners.

PUBLIC LAW 103-SENATE ENROLLED ACT 224-EFFECTIVE JULY 1, 1998

POLITICAL SUBDIVISION RISK MANAGEMENT FUND - Adds IC 27-1-29-28 - Allows the Political Subdivision Risk Management Commission to prevent further membership of political subdivisions in the fund, decline to renew current membership of political subdivisions, or cease the fund entirely.

## PUBLIC LAW 104-SENATE ENROLLED ACT 241-EFFECTIVE MARCH 13, 1998

DRINKING WATER AND WASTEWATER REVOLVING LOAN FUNDS - Amends IC 13-27-2-10 - Adds IC 13-18-3-12, IC 13-18-13-30, IC 13-18-16-16, and IC 13-18-21-30 - Allows money in the wastewater revolving loan fund to be used to secure a leveraged loan program or other financial assistance programs established in connection with the wastewater revolving loan fund established by IC 13-18-13-2. Exempts certain plans concerning the design or construction of a sanitary sewer or water main from certain State permit requirements.

## PUBLIC LAW 107-SENATE ENROLLED ACT 264-EFFECTIVE JULY 1, 1998

BAIL BONDS - Adds IC 35-33-8-3.2 - Repeals IC 35-33-8-3.1 A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

- (1) Require the defendant to:
  - (A) execute a bail bond with sufficient solvent sureties;
  - (B) deposit cash or securities in an amount equal to the bail;
  - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
  - (D) post a real estate bond.

The defendant must also pay the fee required by IC 35-33-8-3.2(d).

- (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit the following:
  - (A) The fee required by IC 35-33-8-3.2(d).
  - (B) Fines, costs, fees, and restitution as ordered by the court.
  - (C) Publicly paid costs of representation that shall be deposited of in accordance with IC 35-33-8-3.2(b)
  - (D) In the event of the posting of a real estate bond, the bond shall be used only to ensure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees or restitution.

The individual posting bail for the defendant or the defendant admitted to bail must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under IC 35-33-8-7 or retained under IC 35-33-8-3.2(b).

- (3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.
- (4) Require the defendant to refrain from any direct or indirect contact with an individual.
- (5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.
- (6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.
- (7) Release the defendant on personal recognizance unless:
  - (A) the state presents evidence relevant to a risk by the defendant:
    - (i) of nonappearance; or
    - (ii) to the physical safety of the public; and



PUBLIC LAW 107 - (Continued)

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-9-11.5.

For purposes of IC 35-33-8-3.2(b), "disposition" occurs when the indictment or information is dismissed, or the defendant is acquitted or convicted of the charges.

Except as provided by IC 35-33-8-3.2(e), the clerk of the court shall:

- (1) collect a fee of five dollars (\$5) for each bond or deposit under IC 35-33-8-3.2 (a)(1); and
- (2) retain a fee of five dollars (\$5) from each deposit under IC 35-33-8-3.2(a)(2).

The clerk of the court shall semiannually remit these fees to the board of trustees of the public employees' retirement fund for deposit into the special death benefit fund. The fee is in addition to the administrative fee retained under IC 35-33-8-3.2 (a)(2). (This requirement expires December 31, 1998.)

With the approval of the clerk of the court, the county sheriff may collect the bail and fees required by IC 35-33-8-3.2(d). The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

When a court imposes a condition of bail described in IC 35-33-8-3.2(a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

PUBLIC LAW 110-SENATE ENROLLED ACT 387-EFFECTIVE MARCH 13, 1998

SOLID WASTE DISTRICTS - Amends IC 13-21-3-5 - Allows the executives of the three largest cities in Lake County to appoint a member of the legislative body of their cities to serve on the Solid Waste District Board in place of the executive.

PUBLIC LAW 113-SENATE ENROLLED ACT 445-EFFECTIVE JULY 1, 1998

PLANNING AND ZONING - AGRICULTURAL LAND - Adds IC 36-7-4-616 and IC 36-7-11.1-13.1- Allows agricultural nonconforming use of land that began before a comprehensive plan or zoning ordinance came into effect to continue under certain conditions.

PUBLIC LAW 114-HOUSE ENROLLED ACT 1021-EFFECTIVE JULY 1, 1998

COMMON LAW LIENS - Amends IC 32-8-8-39 - Adds IC 32-8-39-2.7 - Adds IC 34-4-45 - States that following the procedures set out in IC 32-8-39 does not create a common law lien. No common law lien exists against the property of a public official for the performance or nonperformance of the public official's official duty. A person asserting a common law lien must prove the existence of the lien as prescribed by the common law of Indiana.

PUBLIC LAW 115-HOUSE ENROLLED ACT 1033-EFFECTIVE JULY 1, 1998

MOTOR VEHICLE EXCISE TAX - PENALTY AND INTEREST FOR FAILURE TO REGISTER VEHICLES - Amends IC 6-6-5-9 - Requires any interest or penalty collected from persons failing to properly register a vehicle as required by IC 9-18 to be deposited in the State general fund for the credit of the county where the person resides. (This is in addition to any additional excise tax judgement that is paid and distributed in accordance with IC 9-18-2-41.

PUBLIC LAW 116-HOUSE ENROLLED ACT 1036- EFFECTIVE JULY 1, 1998

SEAT BELTS - (See Identical language contained in Public Law 57)

**PUBLIC LAW 117-HOUSE ENROLLED ACT 1131-EFFECTIVE JULY 1, 1998**

**DRUG NUISANCES** - Adds IC 34-19-3 - Allows the corporation counsel or city attorney of a city in which a nuisance is located to initiate an action against a person that owns or leases property that has become a drug nuisance.

**PUBLIC LAW 119-HOUSE ENROLLED ACT 1157-EFFECTIVE VARIOUS DATES**

**JACKSON COUNTY CAGIT TAX** - Adds IC 6-3.5-1.1-2.5 - Allows Jackson County to impose the tax at a rate of 1.1% for 4 years.

**PULASKI COUNTY CAGIT TAX** - Adds IC 6-3.5-1.1-3.5 - Allows Pulaski County to impose the tax at a rate of 1.3% for 4 years.

**PUBLIC LAW 122-HOUSE ENROLLED ACT 1213-EFFECTIVE JULY 1, 1998**

**ELECTED STATE OFFICERS' SALARIES** - Amends IC 4-2-1-1- Raises the salaries of the governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, clerk of the supreme court and state superintendent of public instruction. Also provides a housing allowance to all elected State officials except the governor.

**PUBLIC LAW 124 - HOUSE ENROLLED ACT 1272-EFFECTIVE JULY 1, 1998**

**REAL PROPERTY TAX SALES - LAKE COUNTY** - Amends IC 6-1.1-24-1.2, IC 6-1.1-24-9, IC 6-1.1-25 Adds IC 6-1.1-24-5.2, 5.6 and 6.6, IC 6-1.1-25-9.5 and IC 36-1-11-3.2 - Allows the cities of Gary, East Chicago, and Hammond to conduct an expedited second tax sale if properties in those cities were offered for sale by Lake County and the properties failed to receive the required minimum amounts.

**PUBLIC LAW 125-HOUSE ENROLLED ACT 1319-EFFECTIVE VARIOUS DATES**

**MILITARY BASE RECOVERY TAX CREDIT** - Adds IC 6-3.1-11.5 - Creates a new tax credit for taxpayers owning certain properties on a military base recovery site.

**COMMUNITY REVITALIZATION ENHANCEMENT DISTRICT TAX CREDIT** - Adds IC 6-3.1-19, IC 36-7-13-1.6, 2.4, 2.6, 3.2, 3.4, 3.8 and 10 through 20. Amends other sections of IC 36-7-13. Allows cities and towns in Monroe County to request an area to be designated as a community revitalization enhancement district and creates a new tax credit for owners of certain property in the area.

**PUBLIC LAW 127-HOUSE ENROLLED ACT 1376-EFFECTIVE MARCH 13, 1998**

**PUBLIC UTILITY RIGHTS OF WAY** - Amends IC 8-1-2-101 - Prohibits a city or town from unreasonably denying or delaying a public utility's access to public property in the city or town. Allows cities and towns to recover certain management costs of managing rights of way from public utilities.

**PUBLIC LAW 129-SENATE ENROLLED ACT 296-EFFECTIVE MARCH 11, 1998**

**RIVERBOAT FUND - NONCODE** - Allows cities and towns that established a riverboat fund prior to July 1, 1997, to maintain revenue deposited in that fund prior to July 1, 1997.

**PUBLIC LAW 131-SENATE ENROLLED ACT 289-EFFECTIVE MARCH 12, 1998**

**PROBATION SERVICES STUDY COMMITTEE - NONCODE** - Establishes a probation services study committee to study, review, and make recommendations concerning probation services and probation officers.

### ORDINANCE VIOLATIONS BUREAU

The legislative body of a municipal corporation may establish, by ordinance or code, an ordinance violations bureau. Upon the creation of a bureau, the legislative body shall provide for the appointment of a violations clerk (who may be the clerk or clerk-treasurer of the municipal corporation) to be the administrator of the bureau.

If the legislative body does not establish an ordinance violations bureau, the clerk or clerk-treasurer of the municipal corporation is designated the violations clerk.

The violations clerk may accept written appearances, waiver of trial, admissions of violations, and payment of civil penalties of not more than one hundred dollars (\$100) in ordinance violation causes, subject to the schedule prescribed under IC 33-6-3-2.

Upon the appointment or designation of the violations clerk as provided by IC 33-6-3-1, the legislative body shall designate, by ordinance or code, a schedule of ordinance and code provisions of the municipal corporation that are subject to admission of violation before the violations clerk and the amount of civil penalty to be assessed a violator who elects to admit a violation. Civil penalties shall be paid to, receipted, and accounted for by the clerk under procedures provided for by the state board of accounts. Such payments should be receipted to the general fund. Payment of civil penalties may be made in person, by mail, or to an agent designated by the legislative body.

A person charged with an ordinance or code violation is entitled to a trial before a court as provided by law, unless the person waives the right to trial and enters an admission of the violation with the violations clerk. Upon such an admission, the clerk shall assess and receive from the violator the amount prescribed by the schedule of civil penalties established under IC 33-6-3-2(a).

If a person charged with a violation wants to exercise the right to trial, the person shall appear before the violations clerk and deny the violation or enter a written denial with the clerk.

In a county having a consolidated city, the schedule of ordinance violations designated by a municipal corporation must also be approved by the city-county legislative body.

If a person:

- (1) Denies an ordinance or code violation;
- (2) Fails to satisfy a civil penalty assessed by the violations clerk after having entered an admission of violation; or
- (3) Fails to deny or admit the violation;

the clerk shall report this fact to the official having the responsibility to prosecute ordinance violation cases for the municipal corporation.

Proceedings in court against the person shall then be initiated for the alleged ordinance violation.

All sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

An ordinance violation admitted does not constitute a judgement for the purposes of IC 33-19, and an ordinance violation costs fee may not be collected from the defendant under IC 33-19-5. In addition, an ordinance violation processed may not be considered for the purposes of IC 33-19-7-3 when determining the percentage of ordinance violations prosecuted in certain courts. (IC 33-6-3)

IC 36-1-6-3 excludes moving vehicle traffic violations from being enforced under this procedure.

### NEW PUBLIC PURCHASES LAW

Effective July 1, 1998, Public Law 47, Acts of 1997, repeals IC 36-1-9 and creates the new law under IC 5-22.

The general rules of the new law are:

1. If the item to be purchased is under \$25,000, then a city or town may purchase the item in accordance with the city or town's written rules and policies on purchasing. (IC 5-22-8)
2. If the item to be purchased is between \$25,000 and \$75,000, the city or town is to obtain at least three (3) quotes from persons known to deal in the supplies to be purchased.
3. If the item to be purchased is over \$75,000, then the city or town must obtain competitive bids.

#### Exceptions to the General Rules

1. Request for Proposals process - IC 5-22-9
2. Special Purchases - listed in IC 5-22-10
3. Purchases from Qualified Nonprofit Agencies for Person with Severe Disabilities IC 5-22-13
4. Purchase of Services - IC 5-22-2
5. Small Business Set-Aside Purchases (IC 5-22-14)

#### Other Purchasing Requirements

1. Purchase from Department of Correction required - IC 5-22-11
2. Purchase of Rehabilitation Center Products required - IC 5-22-12
3. Petroleum Products - certain provisions required - IC 5-22-17-10

#### Requirements for all Offerors - IC 5-22-16

1. Responsibility
2. Responsiveness
3. Prequalified Contractors - optional
4. Evidence of Financial Responsibility - optional
5. Performance Bond - optional
6. Affirmation by Offeror - (noncollusion affidavit)

#### Purchasing Preferences - IC 5-22-15

1. General Provisions
2. Coal Mined in Indiana
3. Supplies Manufactured in the United States
4. Recycled Materials
5. Soy/Bio Diesel
6. Indiana Businesses

NEW PUBLIC PURCHASES LAW (Continued)

Contract Provisions - IC 5-22-17 and IC 5-22-17-20

1. Cost Plus a Percentage of Cost Contract - not permitted
2. Cost Reimbursement Contract
3. Time Period for Contracts
4. Appropriations - IC 5-22-17-3 and IC 5-22-17-5
5. Renewal of Contracts
6. Early Performance
7. Late Performance
8. Modification of Contracts (may include price adjustments) - IC 5-22-20-1
9. Adjustments in Price - IC 5-22-20-2

Other Administrative Provisions

1. Public Notice - IC 5-22-18-1
2. Acceptance of Offer - IC 5-22-18-5
3. Award of Contracts - IC 5-22-17-12
4. Cancellation of Solicitation and Rejection of Offers - IC 5-22-18-2
5. Offers Opened After Time Stated in Solicitation - IC 5-22-18-3
6. Contract and Purchasing Records - IC 5-22-18-4

POLICE AND FIRE DEATH BENEFITS

Effective January 1, 1999, the beneficiaries of members of the 1925, 1937, and 1953, and 1977 police and fire pension plans who die after December 31, 1998, are entitled to a minimum death benefit of \$9,000.

ENHANCED WIRELESS EMERGENCY TELEPHONE SERVICE FUND

Public Law 98, Acts of 1998, added IC 36-8-16.5, creates a new enhanced wireless emergency telephone service fund for those cities and towns that receive wireless incoming E911 calls and dispatch appropriate public safety, agencies to respond to the calls and apply for such funding. Application for such funding must be made to the State's Wireless Enhanced 911 Advisory Board for those cities and towns that qualify.